

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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No. 22-2909

UNITED STATES OF AMERICA,

Plaintiff-Appellant

v.

J. ALEXANDER KUENG,

Defendant-Appellee

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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UNITED STATES' UNOPPOSED MOTION FOR  
AN EXTENSION OF TIME TO FILE ITS BRIEF AS APPELLANT

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Plaintiff-appellant United States of America respectfully moves, pursuant to Federal Rule of Appellate Procedure 26(b), for an extension of time to and including March 10, 2023, within which to file its brief as appellant. In support of its motion, the United States submits the following:

1. After a jury trial, the district court issued its sentencing judgment on July 27, 2022, sentencing defendant-appellee J. Alexander Kueng to 36 months' imprisonment. Doc. 467. Defendant-appellee Kueng and his co-defendant, Tou Thao, filed notices of appeal on August 10, 2022. Doc. 483 (Kueng); Doc. 488

(Thao). On August 12, 2022, this Court issued an order consolidating the cases for appeal and setting a deadline of October 3, 2022, for them to file their opening briefs. See *United States v. Kueng*, No. 22-2708; *United States v. Thao*, No. 22-2701.

2. On September 7, 2022, the United States filed notices of appeal in both cases, cross-appealing the sentencing orders in *Kueng* and *Thao*. Docs. 514, 515. On September 9, 2022, the Court consolidated the cross-appeals and set a deadline for *Kueng* and *Thao* to file their opening briefs of October 3, 2022, and for the United States to file its responses and opening briefs on cross-appeal 21 days after the Notice of Docketing Activity for the defendants' opening brief.

3. On September 20, 2022, *Thao* filed an unopposed motion for an extension of time to file his opening brief to and including February 27, 2023. The Court denied this motion and granted *Thao* an extension of 30 days, until November 2, 2022, to file his opening brief. On October 3, 2022, *Kueng* moved for the same extension, which the Court granted.

4. On October 24, 2022, *Thao* filed an unopposed motion for an extension of time to file his opening brief to and including February 28, 2023. The Court granted this motion in part, providing *Thao* an extension of 30 days, through December 2, 2022, to file his opening brief.

5. On October 27, 2022, *Kueng* voluntarily moved to dismiss his appeal in

*United States v. Kueng*, No. 22-2708, which the Court granted. On the same day, in light of Kueng's dismissal of his appeal, the Court set the deadline for the United States to file its opening brief in this appeal as November 28, 2022.

6. On November 17, 2022, Thao filed an unopposed motion for an extension of time to file his opening brief on appeal to and including February 27, 2023. The Court granted this motion in part, providing Thao an extension of time to file his opening brief to February 17, 2023. The United States' brief in response and opening brief on cross-appeal in *United States v. Thao* is thus due on March 10, 2023.

7. The United States' opening brief on appeal in this case—*United States v. Kueng*, No. 22-2909—currently remains due on November 28, 2022. The United States submits that the issues in its appeal in this case and those in its cross-appeal in *United States v. Thao*, No. 22-2701, are substantively identical. The United States thus requests an extension to and including March 10, 2023, to file its opening brief as appellant in this case, to align with the filing date for its opening brief on cross-appeal in *United States v. Thao*, No. 22-2701.

8. The United States has not previously sought an extension in this case.

9. This motion is made in good faith and not for the purpose of delay.

Undersigned counsel will exercise diligence in filing the brief within that time.

10. Counsel for the United States has consulted with counsel for defendant-

appellee Kueng, who does not object to the United States' request for an extension of time to file its brief.

WHEREFORE, the United States respectfully requests that this Court grant its unopposed motion for an extension of time until March 10, 2023, to file its brief as appellant.

Respectfully submitted,

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## **CERTIFICATE OF COMPLIANCE**

I certify that the attached UNITED STATES' UNOPPOSED MOTION  
FOR AN EXTENSION OF TIME TO FILE ITS BRIEF AS APPELLANT:

(1) complies with the type-volume limitation in Federal Rule of Appellate  
Procedure 27(d)(2)(A) because it contains 649 words; and

(2) complies with the typeface requirements of Federal Rule of Appellate  
Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate  
Procedure 32(a)(6) because it has been prepared in a proportionally spaced  
typeface using Word 2019, in 14-point Times New Roman font.

s/ Elizabeth P. Hecker  
ELIZABETH P. HECKER  
Attorney

Date: November 22, 2022

## **CERTIFICATE OF SERVICE**

I hereby certify that on November 22, 2022, I electronically filed the foregoing UNITED STATES' UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO FILE ITS BRIEF AS APPELLANT with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit using the appellate CM/ECF system.

I further certify that all parties are CM/ECF registered, and service will be accomplished by the appellate CM/ECF system.

s/ Elizabeth P. Hecker  
ELIZABETH P. HECKER  
Attorney